Planning Inspectorate

Appeal Decisions

Site visit made on 13 October 2026

by A Hunter LLB (Hons) PGDip MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 November 2026

Appeal A Ref: APP/H4505/C/25/3369930
Land at and adjacent to 82 Bensham Road, Gateshead NE8 1PS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Naftoli Meir Lieberman on behalf of YGNH against an enforcement notice issued by Gateshead Metropolitan Borough Council.
- The notice was issued on 26 June 2025.
- The breach of planning control as alleged in the notice is: without planning permission the erection of an outbuilding, installation of five externally mounted air conditioning units and the erection of a timber structure.
- The requirements of the notice are to:
  (i) Remove from the Land the five externally mounted air conditioning units (including fixtures and fittings), indicated A, B, C, D and E in photograph 1 attached to the Notice.
  (ii) Infill all gaps in the wall resulting from compliance with step (i) above and paint to match the surrounding area of wall.
  (iii) Remove from the Land the entire building indicated A in photographs 2 and 3 attached to the Notice and restore the Land to its condition prior to the breach of planning control.
  (iv) Remove from the Land the entire timber platform and steps, (including fixtures and fittings), indicated B in photograph 3 attached to the Notice and restore the Land to its condition prior to the breach of planning control.
  (v) Remove from the Land the entire timber structure (including fixtures and fittings), indicated A in photograph 4 attached to the Notice and restore the Land to its condition prior to the breach of planning control.
  (vi) Remove from the Land all materials and debris resulting from compliance with (i) to (v) above.
- The period for compliance with the requirements is: twelve (12) weeks.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary Decision: The appeal is dismissed and the enforcement notice is upheld with a variation in the terms set out below in the Formal Decision.

Appeal B Ref: APP/H4505/C/25/3370021
Land at and adjacent to 82 Bensham Road, Gateshead NE8 1PS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Persimmon Homes (North East) Limited against an enforcement notice issued by Gateshead Metropolitan Borough Council.
- The notice was issued on 26 June 2025.
- The breach of planning control as alleged in the notice is: without planning permission the erection of an outbuilding, installation of five externally mounted air conditioning units and the erection of a timber structure.
- The requirements of the notice are to:
  (i) Remove from the Land the five externally mounted air conditioning units (including fixtures and fittings), indicated A, B, C, D and E in photograph 1 attached to the Notice.
  (ii) Infill all gaps in the wall resulting from compliance with step (i) above and paint to match the surrounding area of wall.
  (iii) Remove from the Land the entire building indicated A in photographs 2 and 3 attached to the Notice and restore the Land to its condition prior to the breach of planning control.

(iv) Remove from the Land the entire timber platform and steps, (including fixtures and fittings), indicated B in photograph 3 attached to the Notice and restore the Land to its condition prior to the breach of planning control.
(v) Remove from the Land the entire timber structure (including fixtures and fittings), indicated A in photograph 4 attached to the Notice and restore the Land to its condition prior to the breach of planning control.
(vi) Remove from the Land all materials and debris resulting from compliance with (i) to (v) above.

- The period for compliance with the requirements is: twelve (12) weeks.
- The appeal is proceeding on the grounds set out in section 174(2)(g) of the Town and Country Planning Act 1990 (as amended).

Summary Decision: The appeal is dismissed and the enforcement notice is upheld with a variation in the terms set out below in the Formal Decision.

Matters concerning the Enforcement Notice

1. I have identified a defect in the requirements specified on the Enforcement Notice (Notice), along with other changes that I consider to be necessary. It is incumbent upon me to put the Notice in order, subject to there being no injustice to either party. In doing so, I have had regard to my powers under section 176(1)(b) of the Town and Country Planning Act 1990 (1990 Act), to vary the terms of the Notice. I have sought the comments of all parties in regard to variations that I consider to be necessary, and they all replied with no objections.

2. Requirement (iv) of paragraph 5 of the Notice states the entire timber platform and steps indicated B on photograph 3 shall be removed and the land restored to its condition prior to the breach of planning control. However, the breach of planning control does not allege that a timber platform and steps have been erected. Therefore, requiring their removal would exceed what is necessary to remedy the breach of planning control, and that requirement should be deleted.

3. In view of the fact the Council did not refer to the timber platform and steps in the allegation, its reason for issuing the Notice or within its submissions, I am therefore content that there would be no injustice caused to the Council or the appellants cases by its deletion.

4. Furthermore, to accurately reflect the wording in the allegation requirement (iii) within paragraph 5 of the Notice, should instead of referring to the “entire building”, refer to the “outbuilding”. In addition, requirement (v) within paragraph 5 of the Notice includes the word “entire”, which is unnecessary within that requirement. These alterations to the Notice would not make the requirements more onerous, and the breach of planning control would still be remedied by the requirements (as varied), I am content there would be no injustice to either party by this course of action.

5. All variations referred to above are formally set out below under the Formal Decision section.

Preliminary Matters

6. The reasons for issuing the Notice refer to the impact on the host property as a designated heritage asset. However, it was apparent from the Council’s statement that this was an error, and instead it should have referred to 82 Bensham Road as a non-designated heritage asset (NDHA). Although subsequently the appellant

has sought to argue that this is a significant error in the Notice, their appeal and submissions have been prepared and submitted on the basis of it being a NDHA. I have therefore also determined the appeal on this same basis, and I am content that there would be no injustice from this course of action.

7. The National Planning Policy Framework (the Framework) was revised on 17 August 2026. Both main parties were given the opportunity to comment on how the changes affect their respective cases, although no comments were received within the available time.

8. Appeal A is lodged on grounds which include (a) and (f). Alternative schemes are advanced by the appellant as part of the ground (a) and (f) appeal, which indicates that the outbuilding can be retained, along with air conditioning units, subject to some changes. To consider the alternative, I will have regard to it under the ground (a) appeal. Amongst other things, I will have regard to whether this outcome could be achieved by granting planning permission "in relation to the whole or any part" of the matters alleged in the Notice, either with or without conditions.

Ground (a) and the deemed planning application – Appeal A

Main Issue

9. The main issue is the effect of the 5 no. air conditioning units, outbuilding, and timber structure on the significance of 82 Bensham Road (the NDHA).

Reasons

10. The Land, which includes the NDHA has a frontage directly onto part of Bensham Road that runs parallel with its front elevation, there is a grassed area opposite it, containing landscaping, which is between that part of Bensham Road and the B1426 (also named Bensham Road). The NDHA is a modest stone-built property, under a slate roof, it is two storeys high and said to have been used as a public house in the past and currently used for student accommodation. There is residential development to either side of the NDHA, along with a cul-de-sac (Bedford Place) of residential properties immediately behind its rear boundary.

11. I saw on my site inspection that its stone frontage, slate roof and main asymmetrical shallow pitched gable roof with water tabling detailing, are part of the significance of this understated and modest NDHA. However, its significance is also derived from its position set back from the row of properties to one of its sides (side nearest to no.84), along with its arrangement within its plot, which is larger than most of those plots clustered nearest to it. There are also clear views of its front elevation and of one its side profiles (the side nearest to no.84), and its traditional materials, from both Bensham Road, and Bedford Place. Collectively these aspects positively contribute to its significance as a NDHA.

12. It is noted that the NDHA has been extended and altered, including recent rear extensions, and whilst the appellant has drawn my attention to some modern features on the property, the Council has also advised that some of these were

not granted planning permission as part of the earlier extensions. Nevertheless, for the reasons set out above, it still retains its significance as a NDHA.

13. Policy HE7 of the Framework says where a development proposal would harm the significance of a non-designated heritage asset, this should be weighed against the benefits of the proposal and a balanced judgement made, having regard to the scale of any harm or loss and the significance of the non-designated heritage asset.

14. Policy CS15 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle Upon Tyne 2015 (CS) requires high-quality design, that responds positively to local distinctiveness and character, which conserves and preserves the historic environment, along with a proactive approach to sustaining heritage assets in a manner relevant to their significance. Furthermore, Policy MSGP25 of Gateshead's Site Allocations and Development Management Policies 2021 (SADMP) says alterations and extensions of heritage assets should sustain, conserve and where appropriate enhance their significance, appearance, character and setting. It also requires additions to heritage assets to be appropriate in scale, mass, footprint, materials, and architectural detailing, and avoid harm to their significance.

15. The outbuilding the subject of the Notice is sited beyond the rear of the NDHA, and abuts the rear boundary fence of the Land, making it a very conspicuous addition from its rear side when viewed from Bedford Place. Its large scale, raised flat-roofed form and height above the cill of the nearest first-floor window introduce an incongruous feature that contrasts starkly with the NDHA. In addition, its plastic cladding, notwithstanding its light colour, is unsympathetic and contrasts with the rendered finish of the adjoining parts of the building and the stonework of the NDHA. Taken together, these aspects detract from the qualities of the NDHA identified above and harm its significance.

16. Of the 5 no. air conditioning units which are attached to the recent rear extension, 4 no. of these are clearly visible from Bedford Place. They appear bulky, visually dominant and alien features on what would otherwise be a relatively simple rear elevation on the NDHA. As a result, their projection from the rear side, size, and functional design, are considered to be inappropriate development that detracts from the significance of the NDHA. Whilst the air conditioning unit positioned at the lowest height on the building is not particularly noticeable from Bedford Place, it would nevertheless still be an unacceptable form of development. The existing fence provides some screening, however, this does not overcome the harm arising from the unit itself. Its limited visibility does not alter its unsympathetic relationship with the NDHA or the resulting harm to its significance.

17. The timber structure (now removed) covered a significant part of the space between the NDHA and its rear boundary. Its timber supports and tarpaulin cladding (as shown on the photographs within the Notice) were visible from Bedford Place above the height of the rear fence on the Land. Its resultant appearance was alien to the context and harmful to the significance of the NDHA.

18. The appellant advises that the outbuilding provides space for charitable, educational and meeting activities, including for disadvantaged and vulnerable

people. The timber structure provided enhanced outdoor space for occupiers, while the air conditioning units improve the internal conditions of the accommodation within the NDHA.

19. I have taken these benefits into account. However, the evidence provided of the wider benefits associated with the outbuilding is limited, while those arising from the timber structure and air conditioning units are principally private. In the balance required by Policy HE7 of the Framework, I attach limited weight to these benefits and find that, collectively, they do not outweigh the harm to the significance of the NDHA identified above.

20. I therefore conclude that the outbuilding, timber structure, and 5 no. air conditioning units, harm the significance of the NDHA, conflicting with CS Policy CS15 and SADMP Policy MSGP25, in terms of the requirements which are set out above.

Alternative Scheme

21. The appellant has suggested alternatives to removal of the outbuilding, including rendering and enclosing parts with stone or rendered walls. He also proposes to screen the air-conditioning units with rendered boards. However, some of these works would introduce development that do not form part of the matters specified in the Notice, such as the proposed walls, which would appear to extend beyond the Land identified. Furthermore, insufficient details have been provided of the design, dimensions, materials, means of fixing or, where relevant, the structural implications of these works to enable me to properly assess their impacts and whether they would mitigate the harm identified.

22. In any event, even if these matters were capable of being considered as part of the matters alleged, and sufficient details were provided, they would not overcome the harm I have identified. In particular, rendering or screening the outbuilding would not address its harmful scale, siting, height and form. Nor would screening the air-conditioning units alter their size, projection and unsympathetic relationship with the NDHA. Moreover, insofar as the proposed walls would extend beyond the Land and potentially affect land in other ownership, I could not impose such a requirement.

Other Matters

23. I have had regard to the planning history of the Land, insofar as it is relevant to the planning merits of the matters the subject of the Notice. I also acknowledge that the appellant has said they have tried to engage with the Council to find a solution, although it is also noted that the Council has said no planning application was ultimately submitted to it for consideration. These matters do not outweigh the harm I have identified or otherwise weigh in favour of granting planning permission.

24. The points raised by an interested party, are acknowledged, which I have taken into account, were relevant. The other points raised regarding how the timber structure was constructed and partly dismantled, compliance matters in regard to previous planning permissions, whether the air conditioning units are in use or not,

and issues associated with the operation of the existing use at the Land, do not alter my assessment of the planning merits of the development before me.

Conclusion on ground (a) appeal and the deemed planning application

25. The 5 no. air conditioning units, outbuilding and timber structure are harmful to the significance of the NDHA conflicting with CS Policy CS15 and SADMP Policy MSGP25, which I consider to be consistent with the Framework. As a result, I find there to be conflict with the development plan taken as a whole.

26. The Framework is an important material consideration, Policy S3 of the Framework has a presumption in favour of sustainable development, and Policy S4 says development within settlements should be approved unless the benefits of doing so would be substantially outweighed by any adverse effects when assessed against the national decision-making policies within the Framework.

27. Policy HC4 states substantial weight should be given to the benefits of the provision of new or improved community facilities. However, I cannot be certain that the outbuilding and timber structure are used as community facilities, and I have limited information regarding their operation, and the contribution the outbuilding, and timber structure makes to the provision of any public benefits. Even if I were to afford the substantial weight given by Policy HC4 and taking into account the other collective benefits raised by the appellant, they would be substantially outweighed by the adverse effects in this case due to the harm to the NDHA, and the conflict with Policy HE7 of the Framework.

28. Accordingly, there are no other considerations, including the Framework and those points raised by the appellant, that indicate a decision should be made other than in accordance with the development plan. For these reasons, the appeal on ground (a) should be dismissed.

Appeal A on ground (f)

29. Section 174(2)(f) of the Act states that an appeal may be made on the ground that the steps required by the notice to be taken, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.

30. Section 173(4) of the 1990 Act states the purpose of the Notice must be to either (a) remedy the breach; or (b) remedy the injury to amenity. It is evident to me when reading the Notice as a whole, its purpose is to remedy the breach of planning control in this case.

31. The appellant requests the Notice be varied to require the previously mentioned rendered boards be installed to screen the air conditioning units, and that the outbuilding be partly rendered and walls erected on its sides instead of their removal. These aspects have already been assessed as part of the ground (a) appeal above and were found not to be appropriate alternatives in both cases. Furthermore, they would constitute additional works beyond the matters specified

on the Notice and would not remedy the breach of planning control or the purpose of the Notice.

32. I therefore conclude that the requirements of the Notice (as varied) are not excessive to remedy the breach of planning control and restore the Land to its previous condition. Accordingly, the appeal on ground (f) fails.

Appeal B on ground (g)

33. An appeal on this ground is that the period specified in the Notice falls short of the period that should reasonably be allowed. The Notice requires compliance within 12 weeks of the notice taking effect. The appellant is seeking an extended period of 12 months, to allow time to either dispose of their residual interest in part of the Land, or gain access to the land to remedy the breach (as the appellant does not occupy the Land).

34. The appellant has subsequently confirmed (with a copy of the transfer) that in June 2026, its interest in the Land was transferred to a new owner. Consequently, its reason for requiring the extended period for compliance has fallen away. In the absence of any other reasons why the period specified in the Notice falls short of the period that should reasonably be allowed, the appeal on ground (g) fails.

Conclusion

35. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice with variations and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Formal Decisions

36. It is directed that the enforcement notice is varied by:

- in requirement (iii) within paragraph 5, delete the words “entire building” and replace with the word “outbuilding”;
- delete in its entirety requirement (iv) within paragraph 5, and re-number the requirements accordingly; and,
- in re-numbered requirement (iv) within paragraph 5, remove the word “entire”.

37. Subject to the variations, the appeals are dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

A Hunter
INSPECTOR